

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7042

BILL NUMBER: SB 295

NOTE PREPARED: Feb 12, 2004

BILL AMENDED: Feb 12, 2004

SUBJECT: Water Issues.

FIRST AUTHOR: Sen. Landske

FIRST SPONSOR: Rep. Bischoff

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill specifies that water may be diverted from Lake Michigan only if the diversion is approved by the governor of each Great Lakes state under federal law. The bill restates enforcement and penalty provisions for violations under the jurisdiction of the Division of Water of the Department of Natural Resources (Department). It changes certain violations from a Class C infraction to a Class B infraction.

The bill requires the owner of a dam to notify the Department of the sale of the dam. It allows a property owner or an individual who lives downstream from a dam over which the Department does not have jurisdiction to request the Department to investigate whether the dam is a high hazard structure if the individual believes that the failure of the dam may cause loss of life or damage to the person's home or other structures. The bill also provides that if the Department's investigation determines that the dam's failure may cause loss of life or damage to certain structures, the dam is subject to the Department's jurisdiction. It exempts coal mine dams that are regulated under Indiana's surface coal mining laws and federal law from the procedure.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Great Lakes Commission* - The Great Lakes Commission is made up of representatives from eight mid western states, including: Indiana, Illinois, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin. The Commission also consists of members from the Canadian provinces of Ontario and Quebec. This provision will not have a fiscal impact on the Great Lakes Commission as this language makes Indiana's statute conform to the federal law under which the Commission operates.

Dam Inspection - This provision of the bill allows a person to request the Department of Natural Resources to declare certain dams as high hazard structures. If such a request is received by the Department, this provision would require the Department to investigate the structure and area downstream, determine if the structure is a high hazard and issue a written notice of the determination. This provision has a minimal fiscal impact, if any, as its requirements should fit into the Division of Water's existing budget.

Explanation of State Revenues: *Penalty Provision* - This bill changes various penalties throughout the Division of Water's statutes from Class C infractions to Class B infractions. The affected penalties are in regards to the following topics: lake preservation, lowering of twenty-acre lakes, crossing levees, building in flood control areas and construction of channels.

Revenue to the State General Fund could increase if an infraction is changed from Class C to Class B. The maximum judgment for a Class C infraction is \$500 while the maximum judgment for a Class B infraction is \$1,000. Proceeds from infraction judgments are deposited in the State General Fund. No additional revenue would be expected since the court fees for both infraction types are \$70 effective July 1, 1997.

Civil Penalty - Current statute provides that the Division of Water may assess a civil penalty of not more than \$10,000 for any violation of the articles relating to: lakes and reservoirs; levees, dams and drainage; flood control; and rivers, streams and waterways. Revenue collected from this civil penalty is to be deposited in the Water Environmental Fund. This bill replaces certain civil penalties, that may not exceed \$1,000, with the general civil penalty provision. Revenue collected from these civil penalties are to be deposited in the state General Fund.

The General Fund will experience a decrease in revenue from the deleted civil penalties since revenue from this source will now be deposited in a dedicated fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Penalty Provision* - No additional revenue would be expected since the court fees for both infraction types are \$70 effective July 1, 1997.

State Agencies Affected: Department of Natural Resources, Division of Water.

Local Agencies Affected:

Information Sources:

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